

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NATIONAL STARCH AND CHEMICAL
INVESTMENT HOLDING
CORPORATION, PENFORD
AUSTRALIA LTD., and PENFORD
HOLDINGS PTY,

Plaintiffs,

v.

CARGILL, INC. and
MGP INGREDIENTS, INC.,

Defendants.

C.A. No. 04-1443-GMS

DEFENDANTS' THIRD RULE 30(b)(6)
NOTICE OF DEPOSITION TO PLAINTIFFS

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30(b)(6) of the Federal Rules of Civil Procedure, Defendants will take deposition on oral examination of National Starch and Chemical Investment Holding Corporation, Penford Australia Ltd., and Penford Holdings Pty. (collectively "Plaintiffs") on March 28, 2006, continuing day to day until completed, at the offices of Fish & Richardson P.C., 919 N. Market Street, Suite 1100, Wilmington, DE 19801. Plaintiffs shall designate one or more officers, directors or managing agents, or other persons who have knowledge of and will consent to testify on behalf of Plaintiffs with respect to the topics listed in Exhibit A. The deposition shall be recorded by a stenographer duly authorized to administer oaths and will be videotaped. You are invited to attend and cross-examine.

EXHIBIT A – TOPICS FOR EXAMINATION

29. The facts and circumstances concerning any presuit investigation conducted by Plaintiffs' prior to asserting the '454 and '840 patents against Defendants.

30. Plaintiffs' knowledge, from 1980 to the present, of the apparent amylose content of Hylon VII hybrid maize seed, grain and starch.

31. All positions taken, facts submitted, or documents filed in the European patent application, and subsequent opposition proceeding, reflected in documents C035790-C036866.

32. The facts and circumstances concerning any response by Plaintiffs to Defendants' defenses and Cargill's counterclaim that the '454 and '840 patents are not unenforceable due to inequitable conduct, including the facts and circumstances concerning the information detailed in Defendant's briefing filed in support of its motion to amend its Answer and Counterclaims, and Ms. Sweeney's March 1, 2006, Report regarding the failure to advise the USPTO of: (i) 1991 Laboratory Report (NSC 2282-2296) and/or the relevant material contained therein; (ii) 1997 Laboratory Report (PEN 2559-2667) and/or relevant material contained therein; (iii) documents from National Starch's European Opposition re Patent No. 0 584 908 and/or relevant material contained therein (i.e., C35902-35905, C36381-84, C36385-86, C36389-90; see also C36107-122); (iv) the Senti reference (NSC 13903-926) and Cura reference (see NSC 1514-15) and/or relevant material contained therein; and (v) 1998 interference requests (NSC 13942-45; and NSC 13997-14002) and/or relevant material contained therein.

33. The facts and circumstances concerning any response by Plaintiffs to Cargill's Unfair Competition Counterclaims Nos. 4 and 5, as set forth in Cargill's amended Answer and Counterclaims.

34. The facts and circumstances concerning how the tests referenced as the "McNaught Method" in Capitani's May 16, 2000 declaration (C036389-90) and the "Calorimetric [sic]" method in Capitani's July 14, 2000 declaration (C036385-86) were performed, including the precise calculation(s) that were used to determine the "% Amylose".

35. For the period from 1999 to the present, Defendants' market share in: (i) the Native High Amylose market; and (ii) the market for modified products made from Native High Amylose.

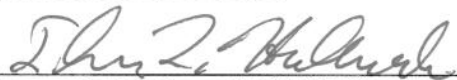
36. The presuit investigation conducted by Plaintiffs prior to asserting the '840 and '454 patents against Defendants, including the specific factual bases supporting Plaintiffs' assertion the '840 and '454 patents against Defendants (e.g., what seed, grain or starch was tested by Plaintiffs, what test specifically was performed, and the results obtained).

37. The apparent amylose content of Hylon VII hybrid seed, grain and starch at all times since 1980.

38. Identification of any documents related to the topics set forth above.

Dated: March 13, 2006

FISH & RICHARDSON P.C.

By: 

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*Attorneys for Defendants
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CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2006, I electronically filed **DEFENDANTS'**
THIRD RULE 30(b)(6) NOTICE OF DEPOSITION TO PLAINTIFFS with the
Clerk of Court using CM/ECF which will send electronic notification of such filing(s) to
the following Delaware counsel. In addition, the filing will also be sent via hand
delivery:


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Investment Holding Corporation,
Penford Australia Ltd., and Penford
Holding Pty*

I hereby certify that on March 13, 2006, I have e-mailed the document(s) to the
following non-registered participants:

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Holding Corporation, Penford Australia
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Thomas L. Halkowski